

# **ORDER OF THE COMMISSIONER OF THE DEPARTMENT FOR NATURAL RESOURCES**

## **Order No. 06-001**

**WHEREAS**, the General Assembly has found, in KRS 351.101(1), that the “highest priority and concern of the Commonwealth must be the health and safety of the coal industry’s most valuable resource, the miner”; and

**WHEREAS**, on May 20, 2006, five (5) miners perished when an explosion occurred in Kentucky Darby No. 1 Mine (hereinafter “the mine”) in Harlan County, Kentucky; and

**WHEREAS**, a preliminary investigation has revealed that the mine used alternative seals to close off abandoned areas of the mine; and

**WHEREAS**, the preliminary investigation has revealed that alternative seals did not contain the explosion; and

**WHEREAS**, an alternative seal is any seal design other than the standard Mitchell-Barrett type seal utilizing solid concrete blocks at least 6 by 8 by 16 inches, laid in a transverse pattern with fully mortared joints, a center pilaster, floor and rib keying (hitching), and wedged at the roof; and

**WHEREAS**, KRS 352.280 requires, in part, that the fire boss or other certified personnel examine, within three (3) hours of every shift, every set of seals on the intake using approved gas detection devices; and

**WHEREAS**, KRS 352.340 requires, in part, that, at least once a week, the mine foreman, assistant mine foreman, fire boss or other certified personnel examine all seals on the return and record any dangers found; and

**WHEREAS**, KRS 351.070(5) requires the Commissioner of the Department for Natural Resources to “superintend and direct the inspections of mines and cause to be investigated the character and quality of air in mines whenever conditions indicate the necessity of doing so”;

**NOW THEREFORE**, in consideration of the premises contained herein, **IT IS HEREBY ORDERED AS FOLLOWS:**

1. In addition to the examinations of seals required by KRS 352.280 and KRS 352.340, every licensed facility within the Commonwealth of Kentucky, through the mine foreman, assistant mine foreman, fire boss or other certified personnel, shall conduct an examination of every alternative seal used in the mine. Said examination shall be both a physical examination of the seal and an examination of the seal using an approved gas detection device. The examinations shall be conducted once during every twenty-four (24) hour period for seven (7) consecutive days.

2. The mine personnel conducting the daily examination required by this Order shall use approved gas detection devices and shall record the measured levels of oxygen and methane at the face of the seal along with the date and time of the examination on the forms attached to this Order.

3. Each licensed facility shall place an instrument capable of recording the barometric pressure on the surface within five hundred (500) feet of the mine portal and shall record on the attached form the barometric pressures at the beginning and the end of each daily period when the alternative seals are examined as ordered in paragraph 2, above.

4. Each licensed facility shall submit the completed forms referenced in paragraphs 2 and 3 , above, to the Office of Mine Safety and Licensing ~~district office~~ to which it is assigned at the completion of the testing period or unless otherwise ~~required~~ by this Order.

5. In the event that miners are required to work or travel within the vicinity of any alternative seal, the licensee, through the mine foreman, assistant mine foreman, fire boss or other certified personnel shall conduct a pre-shift examination of each seal prior to any miners beginning work in those areas. The pre-shift examination of such seals shall include both a physical examination of the seal and an examination using an approved gas detection device at the face of the seal.

6. The seven-day (7) period described herein shall commence within seventy-two (72) hours of the date and time that this Order is signed by the Commissioner.

7. In the event that the physical examination or the testing using the approved gas detection device indicates that methane and oxygen levels violate current statutory and regulatory levels near any alternative seal, the licensee shall take all appropriate actions to render the condition safe and immediately notify the Office of Mine Safety and Licensing district office to which it is assigned.

8. Effective immediately and from this point forward, all preshift and weekly examination log book entries made by the certified personnel conducting the examinations required for all seals by KRS 352.280 and KRS 352.340 shall contain certifications of the following items: a) the physical integrity of the seal; b) positive air flow; c) the actual gas level reading; d) barometric pressure at the time of the examination; e) presence of water in the U-tube, where applicable; and f) the gas sampling tube has been closed, where applicable.

So **ORDERED** this the 23<sup>RD</sup> day of May, 2006, at 5:30 p.m., Eastern Daylight Time.

DEPARTMENT FOR NATURAL RESOURCES

  
\_\_\_\_\_  
SUSAN C. BUSH, COMMISSIONER

Person responsible for obtaining air readings: \_\_\_\_\_

Person responsible for completing form: \_\_\_\_\_

## Alternative Mine Seal Examination

[illegible]

### Barometric Pressure Readings

[illegible]